

**CIVIL SERVICE COMMISSION MINUTES**

**FEBRUARY 15, 2006**

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 of the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

A.Y. Casillas  
Barry I. Newman  
Francesca Krauel  
W. Dale Bailey  
Cheryl Fisher

Absent was:

None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer  
William Smith, Senior Deputy County Counsel  
Selinda Hurtado-Miller, Reporting

**Approved  
Civil Service Commission**

**April 5, 2006**

**COUNTY OF SAN DIEGO  
CIVIL SERVICE COMMISSION MINUTES  
FEBRUARY 15, 2006**

1:45 p.m.            CLOSED SESSION: Discussion of Personnel Matters  
                         and Pending Litigation.

2:30 p.m.            OPEN SESSION: Room 358, 1600 Pacific Highway, San  
                         Diego, California

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<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u> 8, 9	<u>Withdrawn</u>
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COMMENTS: Motion by Casillas to approve all items not held for  
discussion; seconded by Bailey. Carried.

**CLOSED SESSION AGENDA  
County Administration Center, Room 400B  
(Notice pursuant to Government Code Sec. 54954.2)  
Members of the public may be present at this  
location to hear the announcement of the  
closed session agenda.**

A. Commissioner Newman: PUBLIC EMPLOYEE PERFORMANCE  
EVALUATION (GOV. CODE SEC. 54957(b)) **2005-10**, Deputy  
Sheriff, appealing the Citizens' Law Enforcement Review  
Board's sustained finding of misconduct.

B. Commissioner Newman: PUBLIC EMPLOYEE PERFORMANCE  
EVALUATION (GOV. CODE SEC. 54957(b)) **2005-11**, Deputy  
Sheriff, appealing the Citizens' Law Enforcement Review  
Board's sustained finding of misconduct.

C. Commissioner Newman: CONSIDERATION OF PUBLIC  
EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) Donna  
Clark-Richardson, SEIU Local 2028, on behalf of **Margaret  
Gant**, Detention Processing Technician, appealing an  
Order of Demotion and Charges (from Detention Processing  
Supervisor) from the Sheriff's Department.

**OPEN SESSION AGENDA  
County Administration Center, Room 358**

**MINUTES**

1. Approval of the Minutes of the regular meeting of January  
18, 2006.

**Approved.**

## **CONFIRMATION OF ASSIGNMENTS**

2. Commissioner Newman: Solita Kampley, SEIU Local 2028, on behalf of **Mark Humphrey**, former Animal Control Officer, appealing an Order of Termination and Charges from the Department of Animal Services.

**Confirmed.**

3. Commissioner Bailey: **Ernest Saenz**, Program Specialist I, appealing a Final Order of Demotion and Charges (from Program Specialist II) from the Health and Human Services Agency.

**Confirmed.**

4. Commissioner Casillas: Donna Clark-Richardson, SEIU Local 2028, on behalf of **Mary Kay Gagliardo**, former Supervising Animal Control Officer, appealing an Order of Termination and Charges from the Department of Animal Services.

**Confirmed.**

## **CITIZENS' LAW ENFORCEMENT REVIEW BOARD (CLERB)**

### **Findings**

5. Commissioner Newman: **2005-10**, Deputy Sheriff, appealing the Citizens' Law Enforcement Review Board's sustained finding of misconduct.

6. Commissioner Newman: **2005-11**, Deputy Sheriff, appealing the Citizens' Law Enforcement Review Board's sustained finding of misconduct.

**William D. Smith, Senior Deputy County Counsel, recused himself from the dais for items 5 and 6. Mr. Smith is advisory counsel for the Citizens' Law Enforcement Review Board.**

### **FINDINGS AND RECOMMENDATIONS:**

The matter of the appeals of 2005-10 and 2005-11, Deputy Sheriffs, from the Findings of the Citizens' Law Enforcement Review Board in which it sustained allegations against Appellants in the Sheriff's Department, was presented to the Civil Service Commission. The Commission appointed Barry I. Newman, one of its members, to hear the appeal and submit findings and a proposed decision to the Civil Service Commission. Thereafter, the matter was duly noticed and came on for a hearing on January 11, 2006.

Based on the Findings and Conclusions that Commissioner Newman submitted to the Commission, the following decision was recommended: that the allegations in the Complaint against Appellants referred to by the CLERB as Case #04-090 be deemed Not Sustained; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Newman to approve Findings and Recommendations; seconded by Bailey. Carried.**

## **DISCIPLINES**

### **Findings**

7. Commissioner Newman: Donna Clark-Richardson, SEIU Local 2028, on behalf of **Margaret Gant**, Detention Processing Technician, appealing an Order of Demotion and Charges (from Detention Processing Supervisor) from the Sheriff's Department.

### **FINDINGS AND RECOMMENDATIONS:**

Appellant was a Detention Processing Supervisor in the Sheriff's Department. She was demoted for mistakes in entering the data for calculating the sentences for two inmates. One miscalculation resulted in the inmate being released approximately two months early. The other miscalculation resulted in the inmate being released approximately one month late. At the Commission hearing, Employee admitted the mistakes but challenged the level of discipline. The evidence and testimony revealed that the sentence orders at issue were somewhat confusing and sentencing errors were not uncommon. However, Appellant failed to seek clarification from the Court or to refer to a recent memorandum clarifying the Court Order at issue. Appellant has been consistently rated overall as a fully competent supervisor over approximately eight years. Even her most recent performance review, which specifically addressed the incidents at issue in the appeal and which found many other areas needing improvement, rated her as an overall "fully competent" supervisor. Accordingly, the demotion from the position of Supervisor directly conflicts with her performance ratings and, as a result, is inappropriate. However, Appellant's prior discipline and recent performance review reveal an ever increasingly disturbing trend of inappropriate conduct. Therefore, some type of discipline is appropriate and a temporary demotion

is hereby recommended from the effective date of the demotion, October 6, 2005, to the date of this decision.

**Motion by Newman to approve Findings and Recommendations; seconded by Casillas. Carried.**

## **DISCRIMINATION**

### **Complaints**

8. **Alan Landers**, Procurement Contracting Officer, Department of Purchasing and Contracting, alleging gender, race, age and non-job-related factor (Vietnam-era Veteran) discrimination by the Department of Purchasing and Contracting. (See No. 10 below.)

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

**Staff recommendation approved. Commissioner Krauel assigned.**

9. **John McLean**, Procurement Contracting Officer, Department of Purchasing and Contracting, alleging age and gender discrimination by the Department of Purchasing and Contracting. (See No. 11 below.)

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

**Staff recommendation approved. Commissioner Krauel assigned.**

## **SELECTION PROCESS**

### **Appeals**

10. **Alan Landers**, Procurement Contracting Officer, appealing his non-selection for the classification of Senior Procurement Contracting Officer by the Department of Purchasing and Contracting. (See No 8 above.)

RECOMMENDATION: Hold in abeyance pending the outcome of the discrimination investigation.

**Staff recommendation approved.**

11. **John McLean**, Procurement Contracting Officer, appealing his non-selection for the classification of Senior Procurement Contracting Officer by the Department of Purchasing and Contracting. (See No. 9 above.)

RECOMMENDATION: Hold in abeyance pending the outcome of the discrimination investigation.

**Staff recommendation approved.**

### **Findings**

12. **Emelino Angcaya**, appealing the Department of Human Resources' removal of his name from the employment list for Deputy Sheriff-Detentions/Court Services.

RECOMMENDATION: Ratify. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

**Item No. 12 ratified.**

### **OTHER MATTERS**

#### **Extension of Temporary Appointments**

13. Health and Human Services Agency

2 Residential Care Worker Trainees (Erica Cosio, Lillian Ward)

2 Residential Care Workers II (Angela Sanders, Sylvia Guerrero)

RECOMMENDATION: Ratify.

**Item No. 13 ratified.**

14. Public Input.

ADJOURNED: **3:15 p.m.**

**NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION:**

**APRIL 5, 2006.**